

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(1) C.W.P. No. 6437 of 2007

All India L.P.G.Distributors Federation (NWR),Gurgaon.

..... Petitioner through Shri
R.L.Batta, Senior Advocate
with Shri Sandeep Sharma
and Shri Parveen Moudgil,
Advocates.

Versus

State of Haryana and others.

.....Respondent nos. 1,4 and 5
through Shri B.S.Rana,
Additional Advocate General,
Haryana.

Respondent nos.2 and 3
through Shri Manish Bansal
and Shri Gaurav Mohunta,
Advocates.

(2) C.W.P. No. 7070 of 2007

Shanti Gas Services.

..... Petitioner through Shri
R.L.Batta, Senior Advocate
with Shri Sandeep Sharma
and Shri Parveen Moudgil,
Advocates.

Versus

State of Haryana and others.

.....Respondent nos. 1,4 and 5
through Shri B.S.Rana,
Additional Advocate General,
Haryana.

Respondent nos.2 and 3
through Shri Manish Bansal
and Shri Gaurav Mohunta,
Advocates.

(3) C.W.P. No. 17738 of 2007

Guru Krupa Indane L.P.G. Distributor.

..... Petitioner through Shri
R.L.Batta, Senior Advocate
with Shri Sandeep Sharma
and Shri Parveen Moudgil,
Advocates.

Versus

State of Haryana and others.

.....Respondent nos. 1,4 and 5
through Shri B.S.Rana,
Additional Advocate General,
Haryana.

Respondent nos.2 and 3
through Shri Manish Bansal
and Shri Gaurav Mohunta,
Advocates.

Date of Decision: 11.12.2007

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

This judgment will dispose of the above-mentioned three writ petitions as common questions of fact and law are involved therein.

The petitioners are running Liquified Petroleum Gas (LPG) agencies on behalf of their respective Petroleum Companies. They have prayed that the respondents be directed to grant them the land for setting up godowns for storing the LPG cylinders.

In C.W.P.No.7070 of 2007, the further prayer made by the petitioner is that its land measuring 4000 square yards had been acquired by the State Government and, therefore, the respondents were obliged to give it an alternative site in lieu of the acquisition of its land, for which C.W.P.No.10934 of 2003 was filed by its partners and the same was disposed of by a Division Bench of this Court on 24.8.2006 with the following observation:-

“It is observed here that the petitioners may move an application to the authorities concerned for providing them alternate site for the storage of L.P.G. Cylinders. The authorities concerned shall take a decision on the application moved by the petitioners within three months from the date of filing of the same.”

The petitioner in C.W.P.No.6437 of 2007 had also filed a writ petition bearing no.1176 of 2007 for issuance of a direction to the respondents therein to frame a policy and for allotment of the plot/land on lease basis for construction of godowns for L.P.G. distributors. That writ petition was disposed of by this Court vide order dated 24.1.2007, which reads as under:-

“This petition is disposed of with a direction to the respondents

to decide the representation of the petitioner within a period of eight weeks from the date of receipt of this order.”

After the decision of the aforementioned writ petitions, the Chief Administrator, Haryana Urban Development Authority, Panchkula, vide order dated 13.4.2007 (Annexure P7 in all the three writ petitions), rejected the representation made by the petitioner-All India LPG Distributors Federation, Gurgaon for allotment of sixteen godown sites for existing LPG Distributors.

While dealing with the representation, the Chief Administrator observed that there is an existing policy of Petrol Pump sites which was being followed by the Haryana Urban Development Authority and the sites were being allotted to Oil Companies on 15 years leasehold basis at the monthly rent for further allotment to their dealers holding authorized licences etc. with its approval and that the said policy was applicable to the LPG godown sites as well. In order dated 13.4.2007, the concerned officer has noted the salient features of the said policy and Clauses (1) and (4) thereof stipulate that Oil Companies should make an application to the Haryana Urban Development Authority, who shall, thereafter, consider it and make allotment in favour of the company concerned, which may make the requisite provision for construction of godowns to facilitate the running of LPG agencies by their agents.

The relevant portion of order dated 13.4.2007 including the extracts of Clauses (1) and (4) as contained therein is reproduced hereunder:-

“The salient feature of policy guidelines dealing with disposal of Petrol Pump site which is applicable as such as allotment of LPG godown sites are as under:-

1. Inviting applications.

The available sites shall be floated for sale once in a year, inviting applications from the nationalized oil/gas companies as well as from the private oil/gas company authorized to retail the LPG.

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4. Terms and conditions of the allotment.

The allotment shall be made in favour of the applicant oil/gas company. No allotment will be made in favour of letter of intent holder of licensee.

i) The allotment shall be made on leasehold basis initially for a period of 15 years.

ii) The premium of the land and monthly ground rent shall be worked out and recovered on the basis of the following formula:

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Regarding rehabilitation/ relocation of existing gas godowns, I am of the opinion that there is no need of it because the alternative means to get such a site are available. A dealer who intends to shift his godown for any reason, may purchase land in agricultural zone and obtain CLU as it is a permissible

activity. Else, he may approach Oil Company for allotment of land from HUDA as per policy as and when the sites are advertised.”

Feeling aggrieved by the aforesaid order of the Chief Administrator, the petitioners have filed the present writ petitions and upon notice of motion having been issued, respondent no.3 has filed reply on behalf of the respondents reiterating the stand as reflected therein. Besides this, the respondents have also stated that the petitioners are free to choose a site of their own liking and apply for change of land use which shall be considered as and when a prayer for the same is made.

Learned counsel for the petitioners contended that the storage of LPG cylinders is not hazardous and, therefore, a provision can be made by the Haryana Urban Development Authority which is engaged in the development of the urban areas to earmark such sites within the city so that the needs of the residents can be met. That apart, he contended that since the land of the petitioner in C.W.P.No.7070 of 2007 had been acquired, the respondents were obliged to give it alternative site for carrying on its business for supply of LPG cylinders.

We are not impressed with the contentions raised by the learned counsel for the petitioners. Admittedly, the petitioners are merely agents of the Oil Companies and it is their duty to provide for sites to facilitate their own business interest. The respondents are not obliged to provide the sites to the agents, especially in view of the categorical provisions of the policy which lays down that the Oil Companies can apply for allotment of land/

sites for setting up of LPG godowns.

We are also mindful of the fact that such an activity should ordinarily be at a safe place so as not to endanger the lives of the residents of the area and, therefore, the plea of the petitioners that the respondents should grant them sites within the urban areas is also misplaced. Besides, allotment of sites to different categories of individuals is a dictate of the policy, the formulation of which is in the domain of the State and the Courts cannot step in to mandate a particular policy, much less offer prescriptions to include or exclude certain categories.

For the reasons mentioned above, the writ petitions are without any merit and are hereby dismissed.

(Vijender Jain)
Chief Justice

December 11,2007
“SCM”

(Mahesh Grover)
Judge